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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/574,819 05/19/00 LUYTEN F NIH0099.001C

HM12/0925  
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EXAMINER

ROMEO, D

ART UNIT

PAPER NUMBER

1647

DATE MAILED:

09/25/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/574,819

Applicant(s)  
Luyten et al.

Examiner  
David Romeo

Art Unit  
1647



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 Dec 2000
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 27-32 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claims 27-32 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 20) ☐ Other:

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## DETAILED ACTION

### *Election/Restriction*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I.-LXXII. Claims 27-32, drawn to an isolated nucleic acid molecule encoding a polypeptide comprising an amino acid sequence of SEQ ID NO: 15, classified in class 536, subclass 23.5.

Each of groups I-LXXII correspond to a single invention wherein the nucleic acid molecule encodes a polypeptide of SEQ ID NO: 15 wherein Xaa3 is a single amino acid selected from the group consisting of I, M, and V, in combination with Xaa7 wherein Xaa7 is a single amino acid selected from the group consisting of D and E, in combination with Xaa11 wherein Xaa11 is a single amino acid selected from the group consisting of Y, F, and H, in combination with Xaa16 wherein Xaa16 is a single amino acid selected from the group consisting of L and V, in combination with Xaa18 wherein Xaa18 is a single amino acid selected from the group consisting of D and E.

Applicants can make a proper election of a group to be examined by electing, for example, "the group that corresponds to a nucleic acid molecule encoding a polypeptide of SEQ ID NO: 15 wherein Xaa3 is I, Xaa7 is D, Xaa11 is Y, Xaa16 is L, and Xaa18 is D". It is not necessary for Applicants to elect a group by roman numeral. Election of a group by a roman numeral without

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an indication of the nucleic acid molecule to which that roman numeral corresponds is not a proper election.

2. The inventions are distinct, each from the other because of the following reasons:

The following pairwise combinations of products are independent and distinct, wherein  
5 neither member of a pair is required for the production or use of the other, and wherein each of  
the pair can be manufactured independently of the other and used for independent and distinct  
purposes: I and each of II-LXXII; II and each of III-LXXII; III and each of IV-LXXII; IV and  
each of V-LXXII; V and each of VI-LXXII; VI and each of VII-LXXII; VII and each of  
VIII-LXXII; VIII and each of IX-LXXII; IX and each of X-LXXII; X and each of XI-LXXII; XI  
10 and each of XII-LXXII; XII and each of XIII-LXXII; XIII and each of XIV-LXXII; XIV and  
each of XV-LXXII; XV and each of XVI-LXXII; XVI and each of XVII-LXXII; XVII and each  
of XVIII-LXXII; XVIII and each of XIX-LXXII; XIX and each of XX-LXXII; XX and each of  
XXI-LXXII; XXI and each of XXII-LXXII; XXII and each of XXIII-LXXII; XXIII and each of  
XXIV-LXXII; XXIV and each of XXV-LXXII; XXV and each of XXVI-LXXII; XXVI and each  
15 of XXVII-LXXII; XXVII and each of XXVIII-LXXII; XXVIII and each of XXIX-LXXII;  
XXIX and each of XXX-LXXII; XXX and each of XXXI-LXXII; XXXI and each of  
XXXII-LXXII; XXXII and each of XXXIII-LXXII; XXXIII and each of XXXIV-; XXXIV and  
each of -; XXXV and each of XXXVI-LXXII; XXXVI and each of XXXVII-LXXII; XXXVII  
and each of XXXVIII-LXXII; XXXVIII and each of XXXIX-LXXII; XXXIX and each of

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XL-LXXII; XL and each of XLI-LXXII; XLI and each of XLII-LXXII; XLII and each of  
XLIII-LXXII; XLIII and each of XLIV-LXXII; XLIV and each of XLV-LXXII; XLV and each  
of XLVI-LXXII; XLVI and each of XLVII-LXXII; XLVII and each of XLVIII-LXXII; XLVIII  
and each of XLIX-LXXII; XLIX and each of L-LXXII; L and each of LI-LXXII; LI and each of  
5 LII-LXXII; LII and each of LIII-LXXII; LIII and each of LIV-LXXII; LIV and each of  
LV-LXXII; LV and each of LVI-LXXII; LVI and each of LVII-LXXII; LVII and each of  
LVIII-LXXII; LVIII and each of LIX-LXXII; LIX and each of LX-LXXII; LX and each of  
LXI-LXXII; LXI and each of LXII-LXXII; LXII and each of LXIII-LXXII; LXIII and each of  
LXIV-LXXII; LXIV and each of LXV-LXXII; LXV and each of LXVI-LXXII; LXVI and each  
10 of LXVII-LXXII; LXVII and each of LXVIII-LXXII; LXVIII and each of LXIX-LXXII; LXIX  
and each of LXX-LXXII; LXX and each of LXXI-LXXII; LXXI and LXXII.

3. Because these inventions are distinct for the reasons given above and separate searches are  
required, restriction for examination purposes as indicated is proper.

4. Applicant is advised that the reply to this requirement to be complete must include an  
15 election of the invention to be examined even though the requirement be traversed (37  
CFR 1.143).

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the  
inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently  
named inventors is no longer an inventor of at least one claim remaining in the application. Any

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amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

5 ANY INQUIRY CONCERNING THIS COMMUNICATION OR EARLIER COMMUNICATIONS FROM THE EXAMINER SHOULD BE DIRECTED TO DAVID S. ROMEO WHOSE TELEPHONE NUMBER IS (703) 305-4050. THE EXAMINER CAN NORMALLY BE REACHED ON MONDAY THROUGH FRIDAY FROM 7:30 A.M. TO 4:00 P.M.

IF ATTEMPTS TO REACH THE EXAMINER BY TELEPHONE ARE UNSUCCESSFUL, THE EXAMINER'S SUPERVISOR, GARY KUNZ, CAN BE REACHED ON (703) 308-4623.

OFFICIAL PAPERS FILED BY FAX SHOULD BE DIRECTED TO (703) 308-4242.

10 FAXED DRAFT OR INFORMAL COMMUNICATIONS SHOULD BE DIRECTED TO THE EXAMINER AT (703) 308-0294.

ANY INQUIRY OF A GENERAL NATURE OR RELATING TO THE STATUS OF THIS APPLICATION OR PROCEEDING SHOULD BE DIRECTED TO THE GROUP RECEPTIONIST WHOSE TELEPHONE NUMBER IS (703) 308-0196.



DAVID ROMEO  
PRIMARY EXAMINER  
ART UNIT 1647

15 SEPTEMBER 25, 2001